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Privacy and Security of Criminal History Information

A GUIDE TO RESEARCH AND STATISTICAL USE

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Privacy and Security of Criminal History Information:

A GUIDE TO RESEARCH AND STATISTICAL USE

Bureau of Justice Statistics
U.S. Department of Justice
Washington, D.C. 20531

Preface

This Guide describes, in general terms, the requirements of the Department of Justice Regulations governing privacy and security of criminal history information (28 CFR Part 20) which pertain to the release of information by criminal justice agencies for research, evaluative or statistical purposes.

This document is the fifth in a series of guides prepared and published by the Privacy and Security Staff to discuss particular major aspects of the Regulations. The other four documents are:

Privacy and Security of Criminal History Information: A Guide to Dissemination

Privacy and Security of Criminal History Information: A Guide to Review and Challenge

Privacy and Security of Criminal History Information: A Guide to Administrative Security

Privacy and Security of Criminal History Information: A Guide to Audit

In addition, the Privacy and Security Staff has published a ducument explaining the Department of Justice Regulations (28 CFR Part 22) governing the confidentiality of research and statistical data gathered during projects funded under the Omnibus Crime Control Act or the Justice System Improvement Act. That document is entitled:

Confidentiality of Research and Statistical Data

These publications are available through the National Criminal Justice Reference Service. Further information regarding them may be obtained by contacting the Privacy and Security Staff, Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C. 20531.

Introduction

It is generally recognized that effective research and statistical analysis can lead to a better understanding of the criminal justice system and to the development of improved methods and facilities for dealing with crime and delinquency. It is further recognized that achievement of such research or statistical objectives frequently requires the review and analysis of identifiable operational criminal history data.

In light of the sensitivity of criminal history data, however, substantial concern has arisen over the need to ensure that adequate procedures are followed to protect the confidentiality of data released for research or statistical purposes.

In this connection, some criminal justice agencies have expressed concern over release of such information for research or statistical purposes, particularly to persons or agencies outside of the criminal justice system. This concern seems to stem largely from a general uncertainty about the requirements and restrictions of the Regulations and about the potential liability resulting from the release of records for research or statistical purposes.

In order to facilitate the maximum effective use of criminal history information, this document is intended to provide an easily understood statement of the scope of the Regulations and their practical impact on criminal justice agencies and on researchers. The document also discusses agency procedures that might be implemented to ensure compliance with the Regulations, and includes suggested sample forms to be utilized in conjunction with the procedures. Finally, a question and answer section is included in which answers are provided to some of the most common questions that have arisen concerning the research and statistical dissemination provisions.

It is hoped that both criminal justice agencies and research applicants will find it to be a useful guide to their rights, obligations and potential liability, and that it will encourage and facilitate the availability of criminal history record information for research purposes under adequate security and confidentiality restrictions.

Background

The Statute

The Department of Justice Regulations governing the privacy and security of criminal history information (28 CFR Part 20) were issued by the Law Enforcement Assistance Administration on May 20, 1975, pursuant to Section 524(b) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968. Section 524(b) was added to the Act by an amendment effective on July 1, 1973.

On December 27, 1979, Title I of the Act was completely revised by the Justice System Improvement Act of 1979, which significantly restructured LEAA. However, Section 524(b) was re-enacted as Section 818(b) of the revised Act. Section 818(b) provides that:

> *All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Office of Justice Assistance, Research and Statistics shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes.*

In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

In addition, new Section 1301(a) of the revised Act provides that:

All orders, determinations, rules, regulations and instructions of the Law Enforcement Assistance Administration which are in effect on the date of the enactment of the Justice System Improvement Act of 1979 shall continue in effect according to their terms until modified, terminated, superseded, set aside or revoked.

Thus, the original Regulations on privacy and security, as amended (28 CFR Part 20), remain in full force, as do the Privacy and Security Planning Instructions and all applicable rulings and determinations by the LEAA General Counsel or the Privacy and Security Staff.

The Regulations

28 CFR PART 20

In general, the Regulations conform strictly to the requirements and restrictions set out in Section 818(b). In summary, each State is required to develop and implement procedures to insure that information subject to the Act is:

- Complete and accurate;
- Secure against unauthorized access or physical damage or destruction;
- Available for review by the individual to whom the information pertains for the purposes of challenge and correction;

- Subject to limits on dissemination to insure that the information is used only for law enforcement and other lawful purposes; and
- Subject to audit procedures designed to ensure compliance with the Regulations.

As originally issued, the Regulations required that all procedures be implemented by December 31, 1977. The deadline was extended by an amendment effective on December 6, 1977, that permitted the States, within described limits, to set their own deadlines for compliace based upon their available resources, funds and legislative authority. Under the terms of the amended Regulations, every State should by now be in compliance with the requirements relating to review and correction by record subjects and administrative security. In addition, States should, consistent with individual state schedules, be implementing "to the maximum extent feasible" procedures to ensure accuracy and completeness, audit, and physical security; and be finalizing policies on dissemination, consistent with State law and policy as interpreted by appropriate state and local officials.

28 CFR PART 22

The Department of Justice has also issued Regulations under Section 818(a) of the Justice System Improvement Act (formerly Section 524(a) of the Omnibus Crime Control Act). These Regulations are set out in 28 CFR Part 22. In summary, these Regulations provide that data obtained for research and statistical purposes in projects funded under the Omnibus Crime Control Act or Justice System Improvement Act:

- Shall only be used for research or statistical purposes;
- Shall be protected against unauthorized disclosure; and
- Shall not be subject to judicial, administration or legislative process.

The Regulations apply only to identifiable data and do not apply to data which is collected for administrative or operational use.

The interface of these Regulations with the Regulations on privacy and security of criminal history records (28 CFR Part 20) is explained in the text of this Guide.

Scope

AGENCIES COVERED

Criminal Justice Agencies

The Regulations apply only to State and local agencies that have received funds appropriated under Title I of the Omnibus Crime Control Act or the Justice System Improvement Act for the collection, storage, or dissemination of criminal history records in either manual or automated systems after July 1, 1973. Although the number of agencies covered varies among States, the major metropolitan city and county law enforcement agencies and the state law enforcement and correction departments are generally covered.

Non-Criminal Justice Agencies or Individuals

Non-criminal justice public agencies and private individuals or organizations are not covered even if they maintain files that contain criminal history information. However, such organizations or individuals may be affected by the Regulations if they obtain criminal history information from criminal justice agencies under written transfer agreements incorporating security and confidentiality restrictions.

INFORMATION COVERED

The Regulations apply only to "criminal history record information." This includes records that contain identifiable descriptions of individuals *and* notations of arrest, detention, indictment, information, or other formal criminal charges, and any dispositions stemming from such charges, including conviction, sentencing, correctional supervision and release, and dismissals, acquittals or decisions to drop charges.

INFORMATION NOT COVERED

The Regulations specifically exempt the following types of information and records:

- Identification information such as fingerprints or photographs if such information does not indicate involvement of identified persons in the criminal justice system.
- Intelligence or investigative information, such as suspect lists, criminal association lists, financial information, or other such personal information.
- Wanted posters or lists.
- Original records of entry (such as police blotters) organized chronologically and required by law or custom to be made public.
- Court records of public judicial proceedings.
- Published court opinions.
- Records of traffic offenses maintained for licensing purposes.
- Announcements of pardon or executive clemency.

Since the above types of records are not covered by the Regulations, release of such records is not subject to any of the restrictions or requirements relating to research and statistical uses discussed in this Guide.

REQUIREMENTS OF THE REGULATIONS

General

Information that falls within the definition of "criminal history record information" and is not exempted from coverage is subject to the following general requirements:

- *Accuracy and Completeness.* Information must be as accurate and complete as possible consistent with available facilities, resources, and technology.
- *Audit.* Records must be maintained, including dissemination logs, to facilitate systematic audits to ensure accuracy and completeness and annual statewide audits to ensure compliance with the Regulations.
- *Individual Review.* Criminal history records must be available to record subjects for purposes of review and challenge.
- *Security.* Information and facilities must be protected against unauthorized access or physical damage or destruction.
- *Dissemination Limits.* Some types of particularly sensitive information are subject to dissemination provisions as explained in the following section.

DISSEMINATION PROVISIONS

Information Not Subject to Dissemination Restrictions

The Regulations impose no limits on dissemination of:

- Conviction data, including any information disclosing that a person has pleaded guilty or nolo contendere to a criminal charge or has been convicted.

- Criminal history information about the offense for which an individual is currently under arrest, prosecution, or correctional supervision.
-Criminal history information derived from any excluded source of information, such as chronological police blotters or court records.

Information Subject to Dissemination Provisions

The Regulations establish basic limitations on dissemination of "nonconviction data," defined to include information indicating that criminal proceedings have been terminated in favor of the individual (acquittals, dismissals, decisions not to bring charges or not to prosecute) and arrest records without dispositions if more than a year old and no prosecution is actively pending. Such information may only be disseminated:

(1) if consistent with state or local legislation, ordinances, court rule or order (as interpreted by appropriate state or local officials.

(2) to a criminal justice agency for a criminal justice purpose (including employment).

(3) pursuant to an agreement with a criminal justice agency to provide services necessary for the administration of criminal justice.

(4) *to individuals and agencies for use in research, evaluative, or statistical activities, pursuant to an agreement with the criminal justice agency releasing the data.*

The Regulations permit states to adopt stricter or more lenient standards. State "Open-Record" statutes provide an adequate basis to support general dissemination if so interpreted by the appropriate officials.

USER AGREEMENTS

When information is disseminated to individuals or agencies not directly covered by the Regulations by virtue of having received federal funds for information system support, assurances must be obtained (generally in a User Agreement) that the recipient will comply with the restrictions on use and further dissemination and security and confidentiality. When information is released to noncriminal justice agencies or individuals for research, evaluative or statistical purposes, the Regulations (Section 20.21 (b) (4) specifically provide that:

> *The agreement shall specifically authorize access to data, limit the use of data to research, evaluative or statistical purposes, insure the confidentiality and security of the data consistent with these regulations and with Section 524(a) (now Section 818(a)) of the Act and any regulations implementing that section, and provide sanctions for the violation thereof.*

Impact

Based on the above review of the scope of the Regulations, the impact on criminal justice agencies with respect to the release of criminal history information for research, evaluative, or statistical purposes can be summarized as follows:

RELEASE OF INFORMATION NOT COVERED

Certain types of data that criminal justice agencies might ordinarily release or open to access for research or statistical purposes are not covered by the Regulations. This includes information specifically excluded from coverage, such as police blotters, court records or opinions, records of traffic offenses, wanted persons information and records of pardons or executive clemency. Other types of information are not covered because the information does not constitute "criminal history record information" as that term is defined in the Regulations. This includes records that do not identify individuals and from which the identity of particular individuals cannot be determined and matched with data indicating their involvement in the criminal justice system.

The Regulations present no impediment to the release of these records for research and statistical purposes.

RELEASE OF INFORMATION COVERED

There is authority in the Regulations for the release for research, evaluative, or statistical purposes of all types of records covered by the Regulations. This includes records not subject to the dissemination provisions (conviction records and records of persons currently in

the criminal justice system) as well as records subject to the dissemination provisions (non-conviction data and juvenile records).

No separate statutory authority is required by the Regulations in order to release such records or data derived from them for research or statistical purposes and there is no risk of civil or criminal penalties or other liability arising under the Regulations, so long as the security and confidentiality provisions (discussed below) are complied with.

RELEASE NOT REQUIRED

The Regulations permit, but do not require, the release of identifiable criminal history record information for research and statistical purposes. Formulation of policies on release for such purposes and decisions as to whether to release or permit access to particular information for particular research or statistical projects are left to the discretion of the States and of individual criminal justice agencies.

There is no risk of penalty or liability under the Regulations for refusing to release information for research or statistical purposes, so long as applicable State or local law and agency procedures are complied with.

IMPACT OF STATE LAW

Although the Regulations do not prohibit the dissemination of criminal history information for research or statistical purposes, criminal justice agency personnel are cautioned that State law may prohibit the dissemination for such purposes of certain types of records, such as juvenile records. Such stricter laws would not be in conflict with the Regulations and would be fully applicable.

It is also possible that State law or other authority may require the release of certain types of data maintained by State or local agencies for specified purposes, including research or statistical studies. Such laws also would not conflict with the Regulations, if the security and confidentiality protections required by the Regulations are provided for.

RESEARCHER ENTITLEMENT TO INFORMATION

The Regulations do not confer any right upon any individual or organization to demand release of or access to information from any criminal justice agency for research or statistical purposes, even where the information is to be collected with federal support. However, the fact that the Regulations specifically permit the release of information for research and statistical purposes is a clear indication that such release was meant to be encouraged and facilitated when not inconsistent with criminal justice agency requirements or limitations.

RESTRICTIONS ON RELEASED INFORMATION

When information covered by the Regulations is released for research, evaluative, or statistical purposes, the Regulations require that the following be provided for:

- The information should be as accurate and complete as possible consistent with agency procedures and resources.
- The release should be logged and other appropriate records should be kept to facilitate audit.
- There should be a written Security and Confidentiality Agreement executed by the recipient and the criminal justice agency authorizing access, limiting use and further dissemination, ensuring confidentiality and security and providing sanctions for violations.

Procedural Requirements

ESTABLISHMENT OF AGENCY POLICY

This section of the Guide discusses some of the issues involved in the formulation of agency procedures to implement the Regulations. Since there are few mandatory requirements or restrictions in the Regulations concerning the release of information for research and statistical purposes, criminal justice agencies are generally free to formulate policies and procedures to suit their particular needs and limitations.

It is important, however, that policies and procedures be specific and set out in writing whenever possible, in order to ensure fairness and minimize operational problems.

RESEARCHER CREDENTIALS

The Regulations expressly avoid the issue of which organizations or individuals may be authorized access to criminal history information for research or statistical purposes. The Regulations also do not require that applicants be "certified" as a condition to receipt of data.

Consistent with applicable State or local law or policies, each criminal justice agency is free to set its own criteria for review of research or statistics applicants. Access may be limited to representatives of established public or private agencies, institutions, universities or foundations, or may be extended to any agencies or individuals requesting data.

If access is to be limited, however, standards and criteria should be set out in written procedures to preclude the appearance of arbitrary decision-making.

RESEARCH PURPOSE

The Regulations also do not address the issue of the range of research purposes for which criminal history information may be released. The term "research, evaluative, or statistical purposes" is not defined and there is no stated requirement that the project purpose be related to law enforcement or the administration of criminal justice. There is also no requirement that the project be federally-funded.

Agency criteria may favor research proposals related to criminal justice, if consistent with applicable legislation or regulations and if circumstances such as limited personnel or facilities make such a restriction appropriate. In evaluating requests for information, the cost of computer time and the number of personnel that would be involved in collecting the information may be proper considerations, provided that such considerations are consistent with applicable law and policy.

TYPE OF INFORMATION RELEASED

The Regulations provide authority for the release for research and statistical purposes of every type of information covered by the Regulations. Criminal justice agencies may, however, establish limits on the types of data that may be released, in general or for particular projects, consistent with applicable State legislation, regulations, or policy.

There is no obligation under the Regulations to generate new data or new data formats for research applicants. Nor is there any requirement to collect and make available existing data if the task would be burdensome or involve excessive costs that cannot be recovered. If a particular research project is deemed too broad or costly, the criminal justice agency may ask the applicant to revise the scope or design of the project so as to require less data or utilize data in existing formats.

RELEASE OF INFORMATION WITHOUT PERSONAL DESCRIPTORS

The Regulations apply only to information that identifies individuals *and* indicates their involvement in the criminal justice system. Thus, the Regulations do not apply at all to information that does not contain personal descriptors or other indicators that make it possible to match the criminal involvement data with specific individuals. Such "statistical" data may be freely disseminated without creating security and confidentiality concerns.

However, even when personal descriptors are stripped from criminal history records, it still may be possible to establish the identity of individual subjects from other available information or factors. Such factors include:

- The small size of the research and statistical universe;
- The availability of other records that could be combined with research data to reveal individual identities; or
- The inclusion of demographic characteristics of the subjects that would make identification possible.

If there is a reasonable likelihood that identifications can be established through these means, the Regulations should be deemed to apply. As indicated, however, the Regulations do not prohibit the release of such data for research or statistical purposes.

RESEARCHER NEED FOR IDENTIFIABLE DATA

Applicants for criminal history record information to be utilized in research or statistical projects should recognize that the data is highly sensitive and that the Regulations impose requirements and restrictions on criminal justice agencies designed to ensure the security of the data and to protect the privacy of the record subjects. Research applicants can assist agencies in complying with the Regulations by requesting data in identifiable form only when the identification of record subjects is necessary to the research project.

It is recommended that research organizations seek appropriate advice and assistance so as to develop project designs that will minimize the need for identifiable data and meet security and confidentiality requirements. In this way, the burden on criminal justice agencies can be reduced and access to needed research and statistical data can be facilitated.

DIRECT ACCESS TO AGENCY FILES

Criminal justice agencies are not required to permit researchers direct access to agency records if security requirements or other considerations make such access impossible or inadvisable. Where direct access can be granted, as in the case of court records or police arrest books, the costs of the project may be reduced by permitting the researcher to collect the data himself.

CHARGES

Criminal justice agencies may make charges for information supplied for research or statistical purposes. Charges should be reasonably related to the costs of producing and

supplying the information. In the case of criminal history records produced in usual formats, the charge normally should not exceed the amount charged for such records when they are made available for licensing or employment purposes or for individual review and challenge. If production of the information involves computer time or special computer programs, charges may be made to recover these costs.

Applicable charges may of course be waived in appropriate circumstances.

APPLICATION PROCESS

It is recommended that each criminal justice agency have a formal application procedure to facilitate the processing of research requests. Requests for criminal history information should be made on forms provided by the agency which call for the following:

- A statement of the researcher's affiliations and qualifications (if necessary to determine eligibility under agency criteria);
- A description of the research project and the data required so that the time and costs of producing it can be determined;
- A statement indicating why data is needed in identifiable form;
- A description of how the security of the data will be protected and who will have access to it so that the privacy risks involved can be determined; and
- A statement of the applicant's willingness to execute an agreement insuring the security and confidentiality of any information made available.

A suggested format for an application form is included in this Guide on page 26.

SECURITY AND CONFIDENTIALITY AGREEMENT

Before the release of any information containing personal descriptors and indicating the involvement of identifiable individuals in the criminal justice system, the researcher should be required to sign an agreement providing for the security and confidentiality of the information in accordance with the requirements of the Regulations. A suggested form for such an agreement is set out on page 28.

If the applicant is an individual employed by or affiliated with an organization such as a university or foundation, the criminal justice agency may require that the agreement also be signed by someone authorized to bind the parent organization. The Regulations do not require this, however.

INTERFACE WITH SECTION 818(a) REGULATIONS

Reference has been made to the Regulations issued pursuant to Section 818(a) (formerly Section 524(a)) of the Act providing for the confidentiality and immunity from process of research or statistical data. Those Regulations apply to research and statistical information identifiable to specific individuals collected pursuant to research or statistical projects funded under the Omnibus Crime Control Act or the Justice System Improvement Act subsequent to January 14, 1977. In all such cases, the researcher is required to submit a signed Privacy Certificate as part of the application for funds to support the project.

If a researcher who has signed such a Privacy Certificate requests criminal history data for use in a research activity described in the Privacy Certificate, no additional Security and

Confidentiality Agreement is required by the Regulations. Criminal justice agencies may, however, require the applicant to submit a copy of the Privacy Certificate or *may* require the execution of a new Security and Confidentiality Agreement.

The release of information for use in a project subject to Section 818(a) does not subject the criminal justice agency to the provisions of the confidentiality Regulations (28 CFR Part 22). Those Regulations apply only to the information released, not to the releasing agency or the agency record systems from which the information was extracted.

IMPACT OF STATE LAW

The procedures discussed above are based solely on the requirements of the security and privacy Regulations (28 CFR Part 20). Criminal justice agency officials should bear in mind that some of the issues discussed may be affected by State law or policy. Agency attorneys should be consulted for advice concerning the impact of State law on such matters as restrictions on the release of certain types of data for research purposes, authority of the agency to charge for the service provided and additional provisions that should be incorporated in the Security and Confidentiality Agreement.

Questions and Answers

Q. *Must a researcher sign a Security and Confidentiality Agreement before being permitted to review and copy entries in an arrest blotter at a police station?*

A. Probably not. The blotter is probably maintained on a chronological basis and open to the public under State law or custom and would not be covered by the Regulations. If the blotter is organized on an alphabetical basis and not open to the public under State law, the researcher still could be permitted access, but would be required to sign a Security and Confidentiality Agreement.

Q. *Must there be a query to a central state repository before releasing criminal histories for research purposes?*

A. Not unless required by applicable State or local legislation or policy. The purpose of the query before dissemination is to ensure that record subjects are not harmed or prejudiced by inaccurate or incomplete information. Since information released for research purposes cannot be used in identifiable form without the subjects' consent, no harm to record subjects can result from inaccurate or incomplete records. The records should be as complete and accurate as possible, however, to enhance the accuracy and validity of the research.

Q. *Must a researcher be notified of any subsequently discovered errors in information furnished for research purposes?*

A. No. The reasons are the same as for the previous question. However, the release of information to researchers must be logged for audit purposes.

Q. *May researchers be permitted access to name-indexed records of individuals who have been acquitted or whose cases have been terminated favorably by dismissal or otherwise?*

A. Yes, so far as the Regulations are concerned, if a proper Security and Confidentiality Agreement is executed. However, release of the information may be prohibited by State laws requiring the sealing or purging of favorable dispositions.

Q. *If an agency has a policy of stripping all identification data from records released for research purposes, is there any need to be concerned about Security and Confidentiality Agreements?*

A. Generally not. However, in certain cases, subjects may be "unique" in the sense that it is possible for the researcher to establish the identity of the subjects because of the small number of subjects in the data base or because of other external factors, even though the names and other identifying data are stripped from the records. In such cases, a Security and Confidentiality Agreement should be executed.

Q. *Must researchers execute a separate Security and Confidentiality Agreement for each research project for which information is released?*

A. No. A single initial agreement may be utilized if by its terms it covers multiple or continuing research projects. If, however, the agreement is with a university or other such organization, the criminal justice agency may wish to execute separate agreements with individual project directors. This is left entirely to State or local law or policy.

Q. *If a university professor applies for the release of information, may the criminal justice agency require that the application and Security and Confidentiality Agreement be signed by an official of the university?*

A. Yes, if agency policy so requires. However, agency rules should not be so stringent as to defeat or discourage research applications.

Q. *Who may sign the Security and Confidentiality Agreement for the releasing criminal justice agency?*

A. This is entirely up to State or local law or agency policy. The agreement should be signed by someone with authority to bind the agency. Each criminal justice agency should consult its attorneys and formulate a policy on this matter so that someone with authority to sign will be reasonably available.

Q. *May personally-identifiable information obtained for research purposes be processed at the researcher's facility by a nondedicated computer?*

A. Yes. The Regulations do not require dedicated computers as the only means of assuring security of information. If security can be assured by design features or software programs, information may be stored in and processed by shared computers. In such cases, the Security and Confidentiality Agreement should indicate that adequate security procedures will be followed.

Q. *Must criminal justice agencies give notice to individuals whose records are released for research and statistical purposes?*

A. No. The Security and Confidentiality Agreement protects the subjects against any harm, and the Regulations do not require that such notice be given.

Q. *Is all data released pursuant to a Security and Confidentiality Agreement for research or statistical purposes immune from legal process or from being used as evidence in court proceedings?*

A. No. The immunity from process provisions are included in Section 818(a) of the Justice System Improvement Act and apply only to data collected for research or statistical projects that are funded under that Act or the Omnibus Crime Control Act. When data is released for such a research or statistical purpose the immunity provisions apply only to data collected by the researcher and do not apply to the criminal justice records from which the data was released.

Q. *If a researcher wishes to publish a study citing criminal case histories of identified individuals, may he be permitted to do so?*

A. Not unless the data provided to him is derived from public records or other sources not covered by the Regulations or is available for public release under State law.

If this is not the case, the prior consent of the record subjects would be necessary.

SUGGESTED FORMAT
SAMPLE ONLY

Application for Release of Criminal History Information for Research, Evaluative or Statistical Purposes

Name of Applicant: _____

Business Address: _____

Telephone Number: _____

Organizational or institutional associations for purposes of the project: _____

_____

Project Information:

(a) Summary description of the research project design:

_____

_____

(b) Specific description of the information required:

_____

_____

(c) Justification for the need for information in identifiable form: _____

_____

_____

(d) Description of the administrative and physical precautions that will be taken to ensure the security and confidentiality of the information: _____

_____

_____

Security and Confidentiality Agreement:

☐ Applicant has signed a Privacy Certificate pursuant to Section 818 (a) of the Justice System Improvement Act and the Regulations issued pursuant thereto (28 CFR Part 22), and a copy of the Privacy Certificate is attached); OR

☐ Applicant is willing to enter into a Security and Confidentiality Agreement with (Name of Criminal Justice Agency) _____

_____

_____

Signature of Applicant

_____

Date

SUGGESTED FORM
SAMPLE ONLY

Security and Confidentiality Agreement
Release of Data for Research or Statistical Purposes

I. (Name of Applicant) ("Applicant") has requested criminal history information from (Name of Agency) ("Agency") for use in connection with a research or statistical project described in the attached application submitted to Agency on (Date).

II. Agency has approved the release of the information to Applicant for use in the project described in the application.

III. The parties agree as follows:

1. Agency shall make available to Applicant the following items of information:

_____

_____

2. Applicant acknowledges the confidential nature of the information to be supplied and agrees not to disclose any of the information in a form which is identifiable to any record subject except as provided in this agreement.

3. To protect the confidentiality and security of the information, Applicant agrees:

(a) to use the information only for research or statistical purposes in connection with the project described in the application;

(b) to restrict access to the information to persons who are accountable to Applicant and who need the information for research or statistical purposes associated with the project;

(c) to release personally identifiable information only to persons accountable to Applicant whose responsibilities in connection with the project cannot be accomplished without such information;

(d) not to include the information in identifiable form in any reports or publications resulting from the project without the prior approval of the individual record subjects or unless authorized by applicable legislation; and

(e) to keep the information in a secure environment and to advise all persons having access thereto of the limits on release and use of the information.

4. Applicant agrees to pay for the information received from Agency as follows: —

_____

_____

*5. Applicant agrees that at the conclusion of the project:

(a) all information, or all identifying portions thereof, will be destroyed, or

(b) identifying data will be stripped from the information and a name-index will be retained under separate and secure conditions.

*6. Applicant may transfer the information in identifiable form for additional research or statistical purposes only if:

(a) identifying data are necessary for the research or statistical project, and

(b) a Security and Confidentiality Agreement similar to this Agreement is signed by the individual or organization to whom the information is transferred.

7. If Applicant fails in any way to comply with the terms of this Agreement, Agency may cease to supply information to Applicant for this or any other research project and may demand the return of any information previously furnished and take such other action as it deems appropriate.

Researcher	Agency
By: _____	By: _____
(Name)	(Name)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Date)

*Note: This sample form provides that applicants may transfer information to third parties for further research and statistical projects if Security and Confidentiality Agreements are executed. It also provides that applicants may retain the information after the conclusion of the research project if security precautions are taken. *Criminal justice agencies may wish to have stricter policies on these issues; the Regulations would in no way prohibit policies restricting or prohibiting retention or re-transfer of research and statistical data by the original applicant.*

* United States Government Printing Office:1981--341-233/1832

PRIVACY AND SECURITY DOCUMENTS

Privacy and Security of Criminal History Information: A Guide to Dissemination
(NCJ 40000)

Privacy and Security of Criminal History Information: A Guide to Record and Review
(NCJ 48125)

Privacy and Security of Criminal History Information: A Guide to Administrative Security
(NCJ 49110)

Privacy and Security of Criminal History Information: A Guide to Audit
(NCJ 59647)

Privacy and Security of Criminal History Information: A Compendium of State Statutes
(NCJ 48981)

Privacy and Security of Criminal History Information: A Compendium of State Statutes
1979 Update (NCJ 59645)

Privacy and Security of Criminal History Information: An Analysis of Privacy Issues

Privacy and Security of Criminal History Information: An Analysis of Privacy Issues
1979 Update (NCJ 59646)

Privacy and Security of Criminal History Information: Users Manual
(NCJ 59644)

Privacy and Security of Criminal History Information: Privacy and the Media
(NCJ 59643)

Privacy and Security of Criminal History Information: A Summary of State Plans

Privacy and Security Planning Instructions
(NCJ 34411)

Confidentiality of Research and Statistical Data
(NCJ 47049)

Confidentiality of Research and Statistical Data: A Compendium of State Legislation
(NCJ 44787)

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